



# CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance and Litigation



**Biweekly Report—Period Ending January 03, 1997**

## Austin Company ADR

After intensive negotiations over the last several weeks, we have successfully resolved this matter. The settlement of this delay claim is all inclusive, as it covers the alleged direct, extended field overhead, extended home office overhead, and potential acceleration cost claims of both the Austin Company and all of its subcontractors. It grants an additional contract extension of seven (7) work days (as opposed to the requested 55 additional work days), and provides approximately \$1.4 Million in financial relief (against Austin's request of approximately \$3.7 Million). The ADR process also was very successful. It resolved, in approximately five months, while contract performance was continuing, and without a formal claim ever being filed, a complex dispute, which, if litigated at the Board of Contract Appeals ("BCA"), potentially would have consumed several years and hundreds of thousands of dollars in manpower resources, before obtaining a final decision. It marked the first occasion for Commerce to enlist the services of a Judge at the BCA, without formal jurisdiction, to act as an early neutral evaluator and facilitator in the ADR process. It effectuated the "partnering" agreement the parties had incorporated into the contract. It also went far in assuring completion of the Advanced Chemical Sciences Laboratory at NIST within the time required by the scientists for occupancy, and within budget. Ken Lechter had the matter.

## NOAA Class VIII Supercomputer Procurement

We have provided comments on draft answers to vendor questions. The project team is preparing to issue an amendment extending the due date for proposals to February 4, 1998. Fred Kopatich

## American Bar Association Technology Council

Jerry Walz has been appointed as the Section of Public Contract Law's representative to the ABA Technology Council.

## Allstate Leasing, Inc. v. United States, COFC No. 97-794C

A Federal Supply Schedule contractor has sued for damages in the amount of \$26,090.16, which allegedly represents termination for convenience costs and damages associated with the lease of automobiles between 1992 and 1993 by various

federal agencies, including the Department of Commerce. CLD is in the process of obtaining information from the appropriate contracting officials to assist in preparation of a litigation report for the Department of Justice. Terry H. Lee has the case..

## Proposed revision of OMB Circular A-97

OMB has proposed a revision of Circular A-97, which may have an impact on the Department's franchising efforts. The proposed revision is at 63 FR 2288. One proposed revision at 7.c, states:

c. Such services will not be provided unless the agency providing the services is providing similar services for its own use and, if commercial in nature, are being provided in accordance with a cost comparison conducted under the policies set forth in the Office of Management and Budget's Circular No. A-76, "Performance of Commercial Activities," ... and its March 1996 Revised Supplemental Handbook. In addition, in accordance with the policies set forth in Circular No. A-76, the requesting entity must certify that such services cannot be procured reasonably and expeditiously by it through ordinary business channels.

